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ABSTRACT

Drawing on the writings of scholars in the field, this report presents the case for increased parental control over the education of children. It begins by maintaining that the American public school has fallen from favor mainly because of a decline in academic achievement and the replacement of the teaching of basic skills with social engineering. The author sees the humanistic curriculum and subjective values as the roots of the crisis. The author maintains that education is basically religious and neither can, nor should be, the value-free institution that today's educators strive for. Advocating reforms based on more family control and less state control of education, the report attempts to demonstrate that the Constitution and a number of Supreme Court decisions guarantee the primary rights of parents in the education of their children. Court decisions illustrating the legal tension between family rights and state control are cited. Finally, current proposals for increasing family choice in education are presented and explained, ranging from voucher systems to minimum competency requirements to moral education classes. The paper concludes that in this democratic, pluralistic society, all families should be free to train their children according to the values and beliefs they cherish.
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The New Imperative

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Chapter 1

The Lost Ideal: The American Public School

Can there by any doubt that the past decade has generated the most pervasive and widespread dissatisfaction with the present state-supported school system since its establishment? The public no longer accepts the premise that the state school, in addition to home and church, is the best vehicle through which American children must be socialized to be adjusted and productive participants in the "American Way of Life."

The cries of prophets such as Rudolph Flesch, author of *Why Johnny Can't Read*, have been joined by a crescendo of criticisms, analyses and diagnoses of our ailing schools, emanating from citizens and scholars alike.[1] Statistics confirm declining test scores, increased enrollment at private schools and frequent defeats of school bond issues.[2] Studies on violence, vandalism, delinquency, illegitimacy and abortion point to a widespread moral breakdown among our young people and no longer is the family being made the perennial scapegoat.[3]

Mortimer Adler, author of *How To Read A Book* and now senior associate of the Aspen Institute for Humanistic Studies, of which he is also co-founder, confessed to "being very, very despondent about the state of American Schools, about the state of curriculum, about the lack of discipline in the liberal arts—reading, writing, speaking and listening," and wishes that the "back to basics movement was a vigorous and sound as it is noisy."[4]

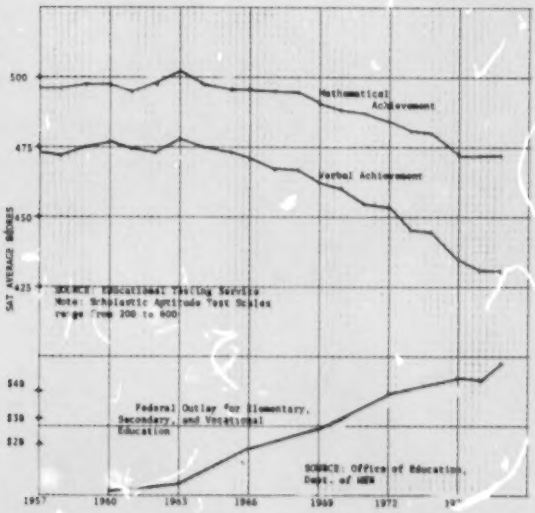
At the very time that a widespread and profound re-evaluation of the place of schooling in our society is taking place, however, the people in charge of the school system have grown, in political terms, more powerful than ever.

The political power of vested interest education

groups is intensified at the national level through the severe ideological imbalance in the current membership of the House Education and Labor Committee and the Senate Human Resources Committee. These congressional committees authorize and theoretically exercise "oversight" over the vast array of federal education policies and programs. The degree to which these policies and programs have served the vested interest education groups at the expense of the public and the nation's children is illustrated by the graph below. This graph contrasts the national achievement scores with yearly increases in federal education appropriations.[5]

Vested interest education groups include the two powerful teachers unions, the National Education Association and the American Federation of Teachers, the federal agencies and bureaucracies and their clientele, the network of education "think tanks" and education departments operating at the higher education level. These groups combine to represent an education establishment that continues to hold the upper hand over education consumers.

The education consumers, parents and their children, find themselves locked in a political-



Coincidence of decline of achievement with rise in Federal spending

judicial interest group struggle in which they are most frequently found on the losing end. As William Raspberry, columnist for *The Washington Post* recently commented, in too many schools, parental involvement means only that "parents are expected to show up to do what they are told when the principal invites them, or prepare a dish for the pot-luck dinner, or come to PTA meetings a couple of times a year."[6]

The pages of the *American School Board Journal* bear persistent witness to the fact that the community, acting through school boards, simply no longer has essential and effective control over the public schools.[7]

Up until the mid-sixties, schools operated largely within the framework of local decision-making majorities. The local majority model presupposed the possibility that all elements in the community, parents, teachers, business, civic, and church groups, could meet on a common ground to fund and operate the schools. Moreover, there was, in general, an agreement among these elements as to what should be taught in the form of a basic curriculum.

There appears to be fairly widespread agreement on the apparent causes of the derailment of local control of public education. First and foremost among the causes is the massive intrusion of the federal bureaucracy into the local schools. Virtually no area of education at the local level, except maybe the color of the carpet in the all-purpose room (the type of question the PTA is allowed to decide), is untouched by this basic alteration in American educational decision-making.[8]

The government has enormous influence in determining the focus, modes and values of public education through grants given under the various federal agencies, including the Office of Education, the National Institute of Education the National Science Foundation and the National Endowment for the Humanities. The effect of the grant system is to give access, power, prestige and money to certain groups, individuals and institutions to thereby implement their educational values and goals in the local schools.[9]

What is taught in the schools is too often determined by which individuals and groups are most

successful in using the jargon required to win the grantsmanship game.[10] Workshops and seminars in grantsmanship are routinely attended by school people at public expense to learn how to get more money from the federal government.

Recently a feminist group advocating the elimination of "sexism" in all school curricula, the National Advisory Council of Women's Education Programs, noted in their report, *Sex Fairness in Education Division Communications Products and Dissemination Strategies*[11] that HEW project officers have included "sex fairness" criteria in grant guidelines and requests for proposals. These bureaucrats are requiring that grantees give "minimum assurances" that the curriculum programs produced by them don't "perpetuate social biases."[12]

This is taking place despite the fact that the Title IX rules on sex discrimination issued by HEW specifically stated that HEW cannot require that textbooks or curriculum materials be free of "sex bias." There has been a persistent tendency of HEW bureaucrats to write regulations that go beyond the intent of legislation enacted by Congress. This instance of bureaucratic arrogance makes it clear that if HEW project officers find even the HEW regulations too confining, it is apparently quite easy to simply overturn them. The fact that recipients of government grants are being "encouraged" to incorporate the women's liberation concept of "sex fairness" into their curriculum programs is a blatant but not surprising example of the use by special advocacy groups of the mechanisms of government to install their own values in the public schools.

Another great loss of local control has occurred through judicial intervention. Decisions heretofore left in the hands of local school officials, acting as agents for local majorities, are now consistently adjudicated in the courts. Entirely aside from the pervasive judicial intervention to achieve a social engineering concept of racial balance, courts have intervened in areas that radically affect the value inculcation process taking place in state schools.

One example is the loss of power of local school authorities to regulate dress and general appearance of students and teachers. In the name of

the First Amendment, courts have struck down school regulations of dress, grooming and hair length.[13] Other courts have upheld school regulations regarding appearance.[14]

As the Supreme Court has not ruled on this issue, resolution of essentially the same question varies from state to state, depending on the court jurisdiction the school is under.[15] Because the courts have intervened, the school offices are reluctant to set standards of dress for their schools except in very extreme cases. As personal experience will attest, the effect of this judicial intervention has been, in practical terms, the abolition of standards of dress for teachers and students.

What has been said so far is not likely to come as a surprise to those already aware that there is a serious crisis in education. For parents who feel deeply the responsibility for nurturing to maturity the future adults of our country, the question for some time has been, what to do about the problem.

Faced with growing state power over their lives and the destiny of their children, parents today are clearly at the point where they must grasp the nettle or lose their children. A stand must be taken for family rights in education not only by parents but by all persons concerned with what is happening to the young in our country. The alternative is default to greater and greater state control.

For over a decade, many school battles have been waged at the community level with parents attempting to gain in the kind of education they desire for their children within the public school context. The theoretical basis for these efforts has been to somehow restore the public school system to "health" by making it more "responsive" to the public. If the system has been derailed, the apparent solution was to somehow get it back on the track by restoring local control, or at least to make the system more responsive in the areas that really mattered, value inculcation and academic instruction.

What is emerging is the growing recognition that by its very nature the system cannot, and will not, in any fundamental way, be capable of responding to the real needs and wants of education consumers, either individually or collectively.

The system, and by that we mean the interest

groups that control it, will only be "responsive" to the extent that it perceives that its political survival depends upon the appearance of responding to public demands.

The much discussed "back to basics" movement, born out of school failure on an unprecedented scale, has produced a tactical retreat by the school establishment in the face of mounting public criticism.

Some educators within the system are now gaining the courage to speak out for basics and cognitive learning. Concerned about the wasted lives that school failure represents, they are committed enough to the education of children to go beyond the stunted, mediocre, pseudo-social science nostrums of their more prestigious and powerful colleagues.[16]

To the extent that the back to basics movement is carried out, however, it depends for its implementation on education interest groups which, in the main, see it as an expedient measure to be taken in response to public pressure. The framing of the response, the devising of curricula, the implementation of curricula—all of this will continue to be done by essentially the same personnel who presided over the now discredited "innovative" programs of the 60's and 70's. Moreover, the definition of what is basic will be determined by the same establishment think tanks that receive government grants to carry out the new "mandate" for basic education.

Education consumers would do well to remember the words of Catherine Barrett, former president of NEA (under whose presidency the NEA "arrived" as a political pressure group), who defined basic education in this fashion:

> We will need to recognize that the so called "basic skills," which represent nearly the total effort in elementary schools will be taught in one-quarter of the present school day. The remaining time will be devoted to what is truly fundamental and basic.[17]

Barrett's definition of what is truly fundamental and basic is the "problem oriented curriculum" focusing on "war, peace, race, the economy, population, and the environment."[18]

There are, to be sure, many concerned educators

who do not subscribe to the Orwellian visions of the spokesmen for the National Education Association. However, the political voice of professional educators today is unfortunately dominated by those who envision the primary purpose of education as social engineering. Moreover, it is the *political* voice of the professional educators, led by the National Education Association, whose interest group preferences and goals determine the national political agenda on such questions as the creation of a separate cabinet department of education.

Busy with the tragic fallout of school failure, education consumers have had little time for reflection on the possible long-range paths to education reform. Because education is a family thing, parents have been busy hiring tutors, policing halls as aides to reduce violence, drugs and vandalism, working at second jobs to place children in private schools, and analyzing textbooks to try and teach at home what is lacking or attacked at school.

While parents have been confronting these education crises, various scholars have been wrestling with the moral, legal, constitutional and philosophical implications of the schooling situation in the United States. These scholars, including Stephen Arons, Donald Erickson, John F. Gardner and E. G. West, have been asking profound questions about the nature of education, the rights of the family and the role of the state in schooling.

Our central focus at this point is to bring some of the findings of these scholars together in one easily accessible place to serve as a reference and a guide for further study of their work, discussion, and, ultimately action on behalf of family choice in education.

Specifically, the issues to be addressed are:

- What is the nature of education?
- Can education ever be neutral or value free?
- Does the Constitution and subsequent Supreme Court decisions guarantee the primary rights of parents in the education of their children?
- What do court decisions tell us about the current legal tension that exists between family rights and state control?
- What are the current proposals for educa-

tional reform that advance the goals of family choice and the disestablishment of state control over schools?

Chapter 2

What is Education?

To more fully understand the implications of the First Amendment in the context of family rights, an important first step is consideration of the nature and meaning of education. The word education itself merely describes a process of development. The purpose, content and mode of education must, however, be defined in terms that go beyond mere process.

John Fentress Gardner, in his penetrating analysis of the education endeavor, *The Experience of Knowledge*, discusses the fundamental questions that should be asked and answered by every person engaged in the training of the young, namely, what is the nature of man and what is knowledge?

The Nature of Man

If education is the process of man's development, the central question from which all understandings of this development flow is: What is the nature of man?

Is man a created being of mind, soul, body and spirit? Does he exist in a created order that transcends himself? Can man, through God-given reason and his senses, discover and understand the world? Is man's mind capable of knowledge beyond his own subjective consciousness?

Upholding the spiritual view of man, Professor Gardner states:

> In the core of his being, man is eternal spirit. Inevitably he will strive to live from this spirit. Inevitably the goal of education he gives his children will be to help them activate this deepest center of being in themselves. He will seek methods that show promise of being able to awake, draw forth, and strengthen what lies in them as the seed of all creativeness and joy in living.[19]

Proponents of modern educational theory, however, view man as a biological organism; a collection of atoms; the product of evolution in a world created by chance. Man's soul and spirit do not exist because that existence cannot be proven by the methods of biological or behavioral science. What makes man "human" are the biological, sociological and psychological factors that distinguish him from "other animals."[20]

In this view, man's uniqueness is reduced to mere biological and environmental determinism. Consequently, man has neither inherent worth nor natural dignity beyond that which he grants to himself or that which other men grant to him. Man's ultimate value and worth must, therefore, be determined by society, culture and politics.

The Nature of Knowledge

Value-free schooling is impossible because ultimately all educational endeavors must emanate from a world view that is either transcendent or humanistic. All concepts of the *meaning* of knowledge and of *what is worth knowing* must of necessity flow from religious and philosophical beliefs.

If man is a purely material organism, what he knows can only be his own consciousness of himself. His knowledge must of necessity be self-knowledge. Abraham Maslow, father of the humanistic school of psychology, which is the foundation for the humanistic approach to education now prevalent in the nation's schools, has stated:

> Discovering your specieshood, at a deep enough level, merges with discovering your selfhood. Becoming (learning how to be) fully human means...learning (subjectively experiencing) what you peculiarly are, how you are you, what your potentialities are, what your style is, what your pace is, what your rests are, what your values are... where your personal biology is taking you, i.e., how you are different from others. And at the same time it means to be a human animal like other human animals, i.e. how you are similar to others.[21]

In *The Experience of Knowledge*, Professor Gardner analyzes a book entitled *Education and the Nature of Man* by Earl Kelley and Marie

Rasey.[22] This book is an early embodiment of the fundamental tenets of modern educational theory concerning the nature of man and knowledge. The importance of this book, and Professor Gardner's analysis of it, is that it demonstrates once again that education by its very nature is not neutral or value free.

In every educational theory the concept of knowledge flows from the initial *a priori* definition of man made by the theorist. If one believes that man is a mere biological organism, it follows that all man can know exists subjectively in his mind. The authors of *Education and the Nature of Man* describe knowledge in this fashion:

> Knowledge, then, is what we know . . . it is subjective in nature, and unique to the learner. It does not exist before learning begins, or if it does, that fact does not matter. It is a result of process, and is subject to continuous modification.[23]

In this quotation lies the key to understanding the "inquiry method" through which the NEA, and virtually the entire curriculum-building establishment has undertaken to instruct a generation of American school children.

The essence of the inquiry method is described in the following quote from the *NEA Journal*:

> For the students, the most important result of learning through inquiry is a change in attitudes toward knowledge. As they engage in the dialogue of inquiry, they begin to view knowledge as tentative rather than absolute, and they consider all knowledge claims as being subject to continuous revision and confirmation. . . .
>
> Our studies show that the introduction of an issue, rather of a personal or social nature, elicits a great deal of student discussion and the expression of a variety of viewpoints. As they present their ideas, which are continuously challenged by their peers, students begin to see what value judgments cannot be accepted solely on faith. They realize that judgments about the worthiness of a social action, a group project, or personal conduct stand or fall on the basis of explicit grounds that support them.[24]

Quoting again from *Education and the Nature of Man* we learn that

since perception and experience are subjective and personal, knowledge also is subjective and personal. *This fact gives each man a world all his own* (emphasis added).[25]

In this dismal view, man is utterly alone, bound by his own subjective consciousness. Man's problem thus becomes one of "establishing communication with others living in their own unique worlds, to the end that sufficient understanding will result that life will be tenable."[26]

The modern educational belief that knowledge exists only within the mind of man and that the only reality is "communication with others living in their own unique worlds," explains the otherwise unfathomable commitment by so many educators to training and socializing the child in group dynamics, human interaction, introspective analysis, values clarification and other facets of the current mania for humanistic education at the expense of academic instruction.

In humanistic education, the curriculum becomes totally subjective. Instead of allowing the student through his own human nature to interact with a literary work, humanistic education manipulates him, through questions, to personalize the material. In his reading of *Huckleberry Finn*, for example, a student will be asked to compare "Huck's conflicts with his father with your conflicts with your father." The result is that the student is coerced into an introspective, self-centered view of life in which the only real reality is his own opinion.

Consider the dominant trends in public education for more than a decade. As federal funds were made available for "innovative" and "exemplary" programs, educational theorists and curriculum developers turned en masse to the psycho-social approach to education. Psychological techniques were used to "help" the child, presumed to be locked inside his own consciousness, to "make contact" with his peers by classroom techniques such as role playing and simulation games. It should not be surprising for example, that in an eastern city, Title I funds, intended to help disadvantaged children learn, were used to install a "magic circle" in the classroom in which each child was prodded to reveal his innermost thoughts and feelings on a variety of personal topics.[27]

The denial of the possibility of objective knowledge explains in part the tedious emphasis that modern educational theory places on the *process* of education. The literature of education journals is filled with endless analyses of this process concerning the psychological and sociological factors that condition, impede or facilitate "learning."[28] Rarely, if ever, is the substance of what education *is* ever discussed.

The Consequences of Subjective Value

Just as the entire process of knowledge depends on how man is defined, so too, the definition of value depends on one's *a priori* philosophical and religious notions concerning man's nature.

Those who place themselves within the Judeo-Christian tradition, for example, generally hold to a view that values are beliefs held by man that reflect his understanding of the moral order to which he belongs. That moral order is seen as transcending man's finite material being and consciousness. Parents who believe in the idea of objective value will generally hold that one of their main responsibilities as parents is to instruct their children in these values.

Families desire to impart a concept of objective value to their children because they believe that it reflects a true understanding of the world as it is. In fact, if a realm of objective value does exist, the development of the child for his ultimate happiness and well being absolutely depends upon his correct understanding of moral reality.

C. S. Lewis, in his definitive work on modern educational theory, *The Abolition of Man*, explains that all educational values flow from

> whether you are in or outside of the doctrine of objective value, the belief that certain attitudes really are true and others really false to the kind of thing the universe is and the kind of things we are.[29]

On the other hand, if all possibility for objective value is denied, what man values and how he behaves can only be a matter of taste, preference, conditioning or coercion. No notion of the "good" or the "bad" can have any meaning beyond that which man's own consciousness gives it.

Modern educators do grant, however, that man

must come together to agree on certain values that must be held for the good of society. However, these agreements on certain preferable attitudes and behavior can *never* be understood as based on anything other than man's subjective preferences.

A curriculum entitled *Understanding Human Behavior*, developed by educational theorists Ronald Lippitt, Robert Fox, and Lucille Schiable, graphically illustrates the way in which the doctrine of subjective value is taught.

In the curriculum guide, the students are introduced to the idea of value preferences and the guide illustrates to the teacher the hypothetical situation likely to come up in the course of classroom discussion. A child asks the teacher: "Isn't there always one right and one wrong value?" The guide advises the teacher that this is a "trap." The child is appealing to the teacher's authority and asking her a very direct question: Does objective value exist?

The guide advises the teacher to avoid this "trap" and give the correct answer to the child in the following fashion:

> Teacher: Mrs. Morgan
> We live in a country where people can have many different ideas about what is good or bad. Learning about many different values helps us to think about our own values and why we believe them and whether we should think about changing them.
>
> Student: Tommy
> I wouldn't change my ideas unless it was wrong. Isn't there always one right value, Mrs. Morgan?

The teacher's guide states "This student is appealing to the teacher's authority. Note how the teacher handles this trap."

> Mrs. Morgan:
> Well, Tommy, some values are certainly wiser than others. This may be because people have thought about them more carefully, or because many people have tested and decided on the same value at many different times. In our class, we want to listen to everyone's values, whether or not they agree with ours.[30]

Since modern educational theorists such as B. F. Skinner, Abraham Maslow and Lawrence Kohl-

berg would agree that men do have to live together on this planet, they must address themselves to the question of the means under which it will be possible for men to do so, given the fact that no objective moral order exists.

Having no guidelines except their own consciousness, men must decide how this is to be done. B. F. Skinner and the behaviorist school of psychology suggest operant conditioning since man is a biological organism whose impulses and instincts can be conditioned through reward and punishment. The humanistic psychology school, embodied in the theories of Abraham Maslow and Carl Rogers, suggests ways in which man can "become a person" through autonomous self-development using psychological techniques.

The Moral Development Theory of Lawrence Kohlberg

The dominant educational theory currently in vogue is the moral development theory of Lawrence Kohlberg. The essence of what is moral is found by a process of stages of moral development that Kohlberg, based on his research, asserts that all men should go through. Through curricula based on Kohlberg, the students are given a series of moral dilemmas which they must solve. This exercise of solving moral dilemmas is to facilitate and promote the passage of the student to the next stage of moral development.

After studying the moral development of 50 men over a period of twenty years, Kohlberg concluded that all persons should go through the stages of moral development given in the chart below:[31]

Kohlberg's approach to philosophy and educational theory is an interesting attempt to combine the opposing doctrines of subjective value and objective value into one theory. His method is to mix "buzz words" from the objective value tradition, such as "the Golden Rule," "universal principles of justice" and "respect for dignity of human beings" together with words that exemplify the common understanding of subjective value such as "self-chosen" "categorical imperative" and eschewing of "concrete moral rules."

This results in a kind of philosophical schizo-

Kohlberg's Stages of Moral Development

Preconventional Level

Stage 1: Punishment and obedience orientation (physical consequences determine what is good or bad).

Stage 2: Instrumental relativist orientation (what satisfies one's own needs is good).

Conventional Level

Stage 3: Interpersonal concordance or "good boy-nice girl" orientation (what pleases or helps others is good).

Stage 4: "Law and order" orientation (maintaining the social order, doing one's duty is good).

Post Conventional Level

Stage 5: Social contract-legalistic orientation (values agreed upon by society, including individual rights and rules for consensus, determine what is right).

Stage 6: Universal ethical-principle orientation. Right is defined by the decision of conscience in accord with self-chosen ethical principles, appealing to logical comprehensiveness, universality and consistency. These principles are abstract and ethical (the Golden Rule, the categorical imperative): they are not concrete moral rules like the Ten Commandments. At heart, these are universal principles of justice, of the reciprocity and equality of human rights, as of respect for the dignity of human beings as individual persons.

phrenia since a universal moral order and a self-chosen categorical imperative represent, if 2,000 years of philosophy mean anything, two radically opposing philosophical and religious traditions.

For his authority, Kohlberg relies principally upon the responses given by the 50 men who have participated in experiments in solving moral dilemmas he has conducted over a period of 20 years. This 20 year experiment constitutes Kohlberg's primary scientific proof for his stages of moral development. He also relies, however, on the prestige and psychological findings of the Swiss psychologist, Piaget. Most interestingly, Kohlberg's claim to moral authority is based on placing himself at the end of a philosophical tradition that started with Socrates and goes "from Plato through Dewey to Piaget to ourselves."[32]

Kohlberg's philosophical tradition thus reveals a more than 2,000 year gap between Plato and Dewey in which apparently no one, including Jesus Christ, had, in his view, anything important to say. He does make quite clear at one point that "the tradition of moral philosophy" to which he appeals is the "liberal or rational tradition of Emmanuel Kant" rather than the "rule oriented" tradition of the "ten commandments."[33] He does not, however, inform us of the authority under which his moral tradition can be taught as the basis for the moral formation of the young in state-supported schools.

Epidemic philosophical illiteracy is one possible explanation for the widespread popularity of Lawrence Kohlberg's moral development theory among professional educators. A recent article on "Moral Education in the Schools" by William J. Bennett and Edwin J. Delattre in *The Public Interest* represents a masterful analysis of the moral bankruptcy which tragically lies behind the fuzzy and nebulous phrases that Kohlberg uses to describe his ultimate stage in moral development, stage six, that all men are supposed to be moving toward.

If stages of moral development are the convenient "process oriented" categories that give an appearance of objectivity and scientific respectability to Kohlberg's theory, the moral dilemmas that the students are actually confronted with represent the

philosophical and moral moment of truth for Lawrence Kohlberg.

Consider the following moral dilemma taken from *Hypothetical Dilemmas for Use in Moral Discussions* which has been prepared by the Education and Research Foundation at Harvard associated with Lawrence Kohlberg. Authors Bennett and Delattre recount a typical moral dilemma from this book:

> Sex as a Need: The Johnson family (with four children) was a very happy and close one. Mr. and Mrs. Johnson were in their 30's. One day Mr. Johnson fell from a third-story building where he was working. He broke his back in this accident and was totally paralyzed from his waist down. The accident did not result in economic hardship because of workmen's compensation. Three months after the accident, when Mr. Johnson came home, the problem began. Ms. (sic) Johnson, who was a young person, realized that she would have to give up sexual intercourse with her husband. If she did not want to give up her sex life, she had the following choices: either get a divorce, or to have extramarital affairs.
>
> 1. Is it possible to separate sex from affection? What do you think she should do? Give reasons.
> 2. Do you think this woman should remain married to the husband? Why or why not?
> 3. What do you think would happen to the family if she had an affair?
> 4. If she decides to have an affair, should she tell her husband or keep it a secret? Why?[34]

The subjective approach to value is totally revealed in this moral dilemma; Mrs. Johnson's choice "if she does not want to give up her sex life" is to get a divorce or have extramarital affairs. Authors Bennett and Delattre make the following comment on the moral implications of this moral dilemma:

> According to Kohlberg's theory, students should impartially consider the rights of all people involved in the example about the Johnson family. But in the narrative and the questions, the emphasis is entirely on Mr. Johnson's rights, desires, and rights to her desires. The student is invited to consider and focus on the right to these things. Mr. Johnson's and the children's choices and rights are not discussed. With all the theoretical emphasis on the importance and value of impartiality, this example clearly seems

sympathetic toward the "predicament" of Ms. Johnson and uncaring toward that of Mr. Johnson and the children. It is as if Mr. Johnson and the children lost their rights, including their right to consideration, when Mr. Johnson fell from the building...Mrs. Johnson is taken to be the disadvantaged individual. The example ignores justice, reciprocity, and the equality and equal rights of all the persons involved.[35]

The Power and Authority to Teach Values

In all of these theories there is a common thread which has grave implications in terms of the fundamental rights of parents to raise their children according to their values and beliefs. To those for whom a created order does not exist, man determines through self-chosen principles the modes of social control under which children will be socialized in state schools. It is entirely possible, given the propensity of the education establishment to go from one educational fad to another, that a single child in his school life could be subjected to the behavioral psychology techniques of B. F. Skinner, the humanistic "self development" techniques of Abraham Maslow, and the insistence that he pass through the stages of moral development which have been self-chosen by Lawrence Kohlberg.

The degree and means by which children, under present state school policies are subjected to these theories depends upon where the child's parents live and whether they have the financial means to choose alternative schooling. Under current practice, it is merely a matter of discretion on the part of the education officials as to whether the parents will be requested to give their prior, informed, written consent before any or all of these theories are practiced on their children.

Consider the aegis under which the state permits these educational theorists to act as its agents in the instruction of the child. The state is presumed to be regulating education so that all children will "reach their full potential" for their good and for the good of society.

Can a second grader who cannot read because of instructional incompetence be made to think he is lovable and capable because his teacher pins a yellow button on his shirt with a smiling face that

says "I am Lovable; I am Capable?" Will children be made more tolerant of others by having their teacher designate a member of the class as the child that everyone "hates" for one day so that their class will "know" what is like to be discriminated against? Do children learn "trust" by walking down school halls blindfolded led by their peer partners? Do children learn that vandalism is wrong by solving a moral dilemma in which a poor man with a dying wife must steal a drug from a greedy druggist?

The answer for modern educational theorists (who determine what our children will learn and how they will learn it) to all of these questions is mostly a resounding "yes." Children in their view can learn "desirable attitudes" from all of these techniques because all knowledge is subjective and because human interaction is the only reality outside the mind.

One of the questions that those who believe in a doctrine of objective value might ask is: if all values are subjectively determined, by what authority do educational theorists such as Sidney Simon, Carl Rogers, Jerome Bruner or Lawrence Kohlberg claim for themselves the right to enter the minds of other people's children?

Their response, perfectly consistent with a subjectively oriented value system, might be that their authority to impose their theories on school children rests precisely on their political power through the state education structures to do so. They do not need, nor do they appear to seek, any further justification beyond their own self-chosen principles of conduct. Kohlberg's argument that his theory alone is "objectively true" appears to rest in part on the interesting premise that just about every one except Martin Luther King, Jr., Mahatma Gandhi and, we presume, Plato, Dewey, and Piaget and himself, are below his stage six in their moral development.[36]

Men who would play God may do well to ponder the warning of C. S. Lewis in *The Abolition of Man:*

> The power of man to make himself what he pleases means . . . the power of some men to make other men what *they* please.[37]

Chapter 3

The Hidden Curriculum and Its Values

The "hidden curriculum" of any school plays a crucial role in forming the values of students. How the school officials exercise authority, the standards of conduct that are maintained or not maintained, the patterns of peer influence and the adult example given by the teachers, all constitute the web of relationships in the school that form the hidden curriculum.

Robert Dreeben's *On What is Learned At School* discusses the school's hidden curriculum as a way station between family and adulthood in which the student learns to live under patterns of authority and with his peers.[38]

The pattern of conduct in the school establishes which attitudes and behaviors are good and desirable and which are a matter of individual taste, preference and choice. Whether one is "happy" with the hidden curriculum of a school, either as parent, teacher, administrator or educational theorist, naturally depends on what one's values are.

As in the case of the formal curriculum, the hidden curriculum was until recently assumed to be a result of agreement in the community on what patterns of behavior should be followed in the school. The American ideal of the public school presupposed that local majorities would come together to agree on what conduct would be encouraged and sanctioned.

As Professor Donald Erickson has pointed out, this assumption papers over the inevitable and insurmountable problem presented by the diversity on core values found in our country today. Erickson disabuses us of the naive notion that a neutral hidden curriculum can exist that will be acceptable to all citizens.

He offers the following comment:

> The organizational structure of a school, in its formal and informal aspects, far from being a mere container into which ideas of many sorts can be poured, is itself a potent instrument, a "hidden curriculum" for socializing children to a particular life style.[39]

Erickson maintains that it is impossible for the hidden curriculum to act as a neutral force in the value inculcation of the student. One man's neutrality is another man's indoctrination. For instance, some people would view an education devoid of any reference to a supreme being as religiously and philosophically neutral. Others, particularly those with strong religious convictions, are likely to believe that an education devoid of all reference to God or an order of being higher than man constitutes a religion of secularism or secular humanism imposed on their children. Given the deep diversity of values and faiths existing in the United States, there is no way that a single, monolithic value-free ethic can be taught without violating the rights of parents to the free exercise of religion and the consequent right to rear their children according to their beliefs.

If there was at one point a functioning local deliberative process which produced a working consensus on expected conduct in the public schools, judicial intervention has at this juncture severely if not fatally destroyed it. The courts have for over a decade taken upon themselves the function of adjudicating disputes between the exercise of authority by school officials and the "individual rights" of students. For example, as we have previously pointed out, federal court jurisdiction determines whether school officials have any authority to regulate dress and appearance except to prevent "severe disruption" of the learning process.

The question of the moral character of teachers is another area that is now moving from the jurisdiction of local school administrations into the courts. "In an era of changing mores, the judiciary has the unhappy task of defining immorality and deciding when it affects fitness to teach," according to an article in *Phi Delta Kappan*, "Law and the Sensual Teacher."[40] There are still a few minimum standards of conduct, however, that a

teacher must maintain. For example, under freedom of expression, a teacher may not sexually molest or seduce students or former students as the court decisions now stand. Court decisions today turn on the question of whether private conduct affects the teacher's "fitness to teach."

In the landmark decision of 1965, *Tinker v. DesMoines*,[41] the Supreme Court held that the First Amendment's guarantee of free speech applies to students in the public schools. In that case, in violation of an explicit school directive, students had worn black armbands to class. The court held that school officials could not deny the students' rights of free speech and expression unless the exercise of such rights would substantially interfere with school activities or the rights of others.

Consider the impact that the *Tinker* case, and a related 1971 decision, *Goss v. Lopez*,[42] which required due process for all suspensions, have had on the authority of school officials in the institutions for which they are responsible. Since then, lower courts have handed down conflicting decisions ostensibly based on the constitutional doctrine enunciated in *Tinker v. DesMoines*.

In *Gambino v. Fairfax County School Board*,[43] the board argued that they had a right to prohibit a student newspaper from publishing a survey of sexual attitudes in the school. The board cited the fact that students are a "captive audience" and lack the freedom of choice in what is to be read in the school newspaper. The court rejected the argument saying that the utterances did not impose upon other students because they were not forced to pick up and read the student newspaper.

In the current judicial situation then, parents in various court jurisdictions are compelled by law to send their children to public schools in which school officials have been denied by judicial fiat the necessary authority to maintain any standards of conduct beyond that which causes "severe disruption" of the learning process.

The practical result of this loss of authority by school officials has been the abdication of authority in other areas of student conduct as well. For example, what happens to the student's attitudes when intimate and familiar conduct is permitted

between persons of the opposite sex on school grounds and field trips?

If one believes that all values are relative and a matter of personal preference, it would be of little importance that standards of conduct in this area are not maintained. Indeed, to parents and students holding views similar to those who took the *Tinker* case to court, enforcement of standards in this area might even be considered "repressive" and a denial of the student's freedom of expression.

In this permissive atmosphere, what happens to the rights of those who hold, in C. S. Lewis' words, "that some attitudes are really true and some attitudes really false to the kind of thing that the universe is and the kind of things that we are?"

Those who believe in objective values are being forced to submit their children to value-inculcation that is at total variance with their own beliefs. If no directive from the school authorities is issued to say that this kind of behavior is simply not permitted, the school is inculcating the concept that how one conducts oneself is merely a matter of taste. Self-expression is judged to be of greater worth than self-restraint, modesty or consideration for the sensitivities of others.

Parents who are trying to instill these values in their children will find it difficult to do so with not only the peer pressure but the apparent authority of the school against them. Moreover, this kind of situation brings home again to the impressionable student that there are really *no* standards of conduct or behavior that are to be taken seriously.

The Washington Post and *The Washington Star* have recently printed articles concerning the widespread truancy that afflicts schools in the Washington, D.C. metropolitan area. The absentee rates are placed at about 10 percent, but that does not take into account the large numbers of students that forge notes and give false excuses.

In an article entitled, "In the Suburbs: Teens Tell Why They Skip School; Most Believe in 'Right' to Do Whay They Want," *Washington Star* reporter Pat Lewis, after interviewing scores of truant students, concluded:

> The heart of the matter is this: as independent individuals they feel justified in missing class if they

> don't like the teacher, aren't learning anything, don't like physical education, aren't prepared for a test...or just don't feel like going.
>
> This attitude is so inherent that the teenagers seldom verbalize it. Yet this subtle and basic belief in their right to do what they want or what they think best is perhaps the most significant factor of the truancy syndrome.[44]

School officials growing concerned with the high rate of drug use in Fairfax County (Virginia) schools have attempted to cope with the problem by introducing undercover agents into the schools to stop the drug traffic. Some students are protesting this action as a violation of their privacy and their rights.[45] Even when school officials wish to act for the good of the community in setting standards of conduct, they are finding it more and more difficult to do so.

Several years ago, when the now famous Bayh report on school crime was issued, the nation's consciousness was raised to the fact that an epidemic of violence, crime, delinquency and vandalism pervades many of our nation's schools.[46] Tragically, the politicians, bureaucrats and school officials responded with a process solution to a moral problem. Under the Juvenile Justice and Delinquency Prevention Act, the federal Law Enforcement Assistance Administration gives grants to education think-tanks and local school agencies to develop curricula, pilot programs and studies to analyze and quantify the school crime problem.[47]

In an important article in *Phi Delta Kappan*, Professor Edward A. Wynne goes "Behind the Discipline Problem: Youth Suicide as a Measure of Alienation." Wynne cites, for example, the alarming statistic that between 1950 and 1975 the annual suicide rate of white youths between the ages of 15 and 19 increased 171 percent. Burdened with the statistics he has amassed, Wynne states:

> The data not only portray increased alienation, they also raise important questions about the continuing vitality of American society. After all, that vitality ultimately depends upon the ability of adult-operated institutions such as schools to rear children and adolescents to become effective and competent adults. The data suggest the proportion of youths

maturing into such competence may be steadily declining.[48]

One of the more revealing aspects of Wynne's analysis is the shocking degree of "self-centeredness," "selfishness," "egotism," and "withdrawal" that characterize the students' attitudes in studies he has analyzed. Wynne sees in the youth suicide rate a measure by which "modern society has succeeded or failed in integrating its citizens and institutions." He also sees excessive self-centeredness and alienation as leading to loneliness and self-destruction. In Wynne's judgment, the present structure of schooling in this country is adding to youth alienation and he suggests it should be altered to bring school relationships down to a smaller and more human scale.

Although there appears to be widespread agreement on the symptoms, there are deeply divergent views on the necessary cure. In finding the cure, however, it should not pass unremarked that the selfishness, self-centeredness, alienation and suicidal tendencies that Wynne's statistics reveal come in the face of over a decade of great commitment on the part of public school people to humanistic and affective education, values clarification, role playing, open-ended value discussions and many other antecedents to the current mania for Kohlberg's moral dilemmas.

We need not undertake to determine whether there is a verifiable correlation between a decade of turning the classrooms into mental health clinics and the marked increase in alienation, withdrawal, delinquency and drug use. It may be said, however, that if students are taught that the only real reality they need to concern themselves with is that which exists inside their own heads, it should not be too surprising if young people reared on these nostrums develop difficulties in coping with reality.

Chapter 4

Family Rights and the Courts

> Fundamental...liberty...excludes any general power of the state to standardize its children...The child is not the mere creature of the state; those who nurture him...have the right...to recognize and prepare him for additional obligations....

With these words, the Supreme Court in *Pierce v. Society of Sisters* (1925)[49] affirmed the primary rights of parents in the education of their young. The Court in this case declared unconstitutional a law passed in the state of Oregon which outlawed private schooling and required all parents to send their children to state schools.

Professor Stephen Arons, in his landmark analysis, "The Separation of School and State: *Pierce* Reconsidered"[50] examines the implications of that historic case and subsequent Supreme Court decisions, most notably, *West Virginia v. Barnette* and *Wisconsin v. Yoder*.

Arons' premise is that the essence of schooling involves the inculcation of values and beliefs and that by its very nature education cannot be value-free. Accordingly, he holds that "because value inculcation cannot be eliminated from schooling, the notion of value-neutral education implicit in the legal distinction between religious and secular education is untenable."

Arons suggests that throughout all of the struggles in the public schools over what values will be taught, there has been "an underlying agreement among the combatants that majoritarian political control of the school system is appropriate." That commitment is "made tolerable to some parents because *Pierce* guarantees their right to choose a non-public school that better reflects their values." His judgment is that *Pierce* and subsequent cases, e.g., *Wisconsin v. Yoder* support a consitutional understanding of parental rights that goes far

beyond the right to choose an alternative to the state system if the family can afford it.

Pierce was originally enunciated on the basis of substantive due process rather than the First Amendment. Citing various First Amendment theories developed by leading constitutional scholars, along with subsequent amplifications of *Pierce* by the Supreme Court, Arons maintains that *Pierce* may be properly read as a First Amendment case.

If parents constitutionally possess the right to form their children in their values and beliefs, it would follow that the government is obliged to be neutral in its relation to that process of belief formation. Arons suggests that the present state of compulsory attendance laws and financing of state schools does not adequately satisfy the principle of government neutrality toward family choice in education that the First Amendment would seem to require. He undertakes to show that if the nature of education embodies the inculcation of values and beliefs, it follows that it is the family and not the political majority which the Constitution empowers to make schooling decisions.

Although *Pierce* affirms the right of parents to direct their children's education through alternatives to state schools, it "leaves unsettled the question of just where in the area between absolute parental control and complete state control the Supreme Court will place the limits of allowable state regulation of schooling."

Arons explores these unsettled areas in subsequent cases, some of which appear to diminish and parental prerogative enunciated in *Pierce*, and others which amplify and enlarge upon its principles.

West Virginia v. Barnette

The right of parents to be exempt from state school value inculcation was enunciated in *West Virginia v. Barnette* (1943). *Barnette* overruled the decision in *Minersville v. Gobitis* handed down by the Supreme Court three years before. In *Gobitis* the court held that families who were Jehovah's Witnesses could not be exempt from the flag salute ceremony which was a condition of attending public schools. Justice Frankfurter, writing the majority opinion, ruled that the flag salute requirement

did not violate the First Amendment rights of the parents.

Reversing *Gobitis*, the court in *Barnette* held that the state does not have the power to create "a compulsion of students to declare a belief." Justice Jackson, writing for the majority stated:

> the action of the local school authorities in compelling the flag salute and pledge transcends constitutional limitations of their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment of our Constitution to reserve from all official control.[51]

Consider the implications of the *Barnette* decision on the current plight of students subjected to values clarification and moral education techniques under the aegis of the state. Students are compelled to accept the premise of the educational theorists that it is the students *themselves* who are the ultimate arbiters of whatever values they may decide upon. The students are compelled to declare themselves to be autonomous in moral decision-making.

Through forced choice questions, moral dilemmas, role playing and open-ended value discussions, students must undergo a process of value formation in which only sociological and psychological factors are permitted as the determinants for the moral decisions they are required to make by the school curriculum.

Consider the following question students are asked to answer in one of the values clarification strategies widely employed in state schools.

> Which do you think is the most religious thing to do on a Sunday morning?
>
> - go to church to hear a very good preacher
> - listen to some classical music on the radio
> - have a big breakfast with the family[52]

In their previously cited *Public Interest* article on "Moral Education in the Schools," Bennett and Delattre comment upon the implications of this and other values clarification strategies developed by Sidney Simon, stating:

> Values-clarification "strategies" are supposed to give students the greatest possible freedom of choice and knowledge of themselves and the world. By ac-

cepting the idea that there are no right and wrong answers to questions of morality and conduct, students learn that being clear about what one wants is all that is required to live well.... But do such "strategies" really provide knowledge about the world and freedom of choice? Do they actually make for self-knowledge and ethical maturity and autonomy? Or do they encourage something else....

The exercise about the most religious thing to do on a Sunday morning asks the student to think about what he wants and likes to do on Sunday mornings. Yet it introduces no other considerations, and implies that whatever the student thinks is religious thereby is religious.[53]

The power through which educators in public schools impose their vision of "moral development" upon a captive audience brings to mind the prophetic words of Justice Jackson in *West Virginia v. Barnette*:

As governmental pressure toward unity becomes greater, so strife becomes more bitter as to whose unity it shall be. Probably no deeper division of our people could proceed from any provocation than from finding it necessary to choose what doctrine and whose program public educational officials shall compel youth to unite in embracing. Ultimate futility of such attempts to compel coherence is the lesson of every such effort.... Compulsory unification of opinion achieves only the unanimity of the graveyard.[54]

Wisconsin v. Yoder

The effects of the *Pierce* doctrine in terms of state compulsion in education came to the forefront in *Wisconsin v. Yoder* (1972). The court granted Amish parents an exemption from state compulsory education statutes that would have required them to send their adolescent children to high school.

Chief Justice Burger, delivering the opinion of the court, took up the crucial question of value inculcation. The right of the Amish to the free exercise of their religion under the First Amendment was found to exempt them from the compulsory value inculcation of the state schools. In *Yoder*, the court held that state-imposed socialization is un-

constitutional when it conflicts directly with religious beliefs.

Yoder acknowledged that qualities of character formation lacking specific doctrinal religious content are nevertheless crucial to the claim of parents in the free exercise of their religious beliefs. The significance of *Yoder* would appear to lie in part in the apparent recognition of the importance of the school's "hidden curriculum" in the character formation of children.

In the course of his opinion, Chief Justice Burger stated:

> They object to a high school and higher education generally because the values it teaches are in marked variance with Amish values and the Amish way of life; they view secondary school education as an impermissible exposure of their children to a "worldly" influence in conflict with their beliefs. The high school tends to emphasize intellectual and scientific accomplishment, self-distinction, competitiveness, worldly success, and social life with other students. Amish society emphasizes informal learning-through doing, a life of "goodness" rather than a life of intellect, wisdom rather than technical knowledge, community welfare rather than competition, and separation rather than integration with contemporary worldly society.[55]

Arons' assessment of the implications of *Yoder* is that "the evidence the Court found compelling also supports a broader doctrine: any conflict between public schooling and a family's basic and sincerely held values interferes with the family's First Amendment rights." He argues that the reliance in *Yoder* on the recognition of the various elements of value inculcation, none of which is itself of a specific religious character, had the effect of "eroding the meaningfulness of the distinction between secular and religious values upon which the Court has relied so heavily" in other cases.

What are the implications of *Pierce*, *Barnette* and *Yoder* for parents confronted with the value-inculcation process taking place in state schools? What of the plight of families that do not have the financial means to take advantage of the right to alternative schooling guaranteed to them under the *Pierce* doctrine?

Inner-city families, many of them single parent households, must send their children into schools in which drugs and violence are a fact of life. *The Washington Post* recently reported that "just under half of the seventh graders polled by the Washington public school system say that student behavior is poor and 31 percent report they are fearful, at least sometimes, of being hurt or bothered in school."

The survey went on to report that 70 percent of the students in junior high schools in the Washington, D.C., school system said that, "Many students smoke cigarettes in their schools in violation of rules." Some 48 percent of these junior high students said that "smoking creates a problem."[56] This poll demonstrates that it is the students who suffer the most when school officials fail to maintain standards of conduct.

It is precisely the children of families who care about their education and who exercise authority to send them to school who suffer a grave injustice. The children such as those cited in the above poll are utterly deprived, as are their families, of choosing a civilized educational atmosphere in which learning can take place.

As John Holt, author of *Why Children Fail* and an outspoken opponent of compulsory education laws, recently commented in his newsletter, *Growing Without Schooling*:

> The irony is that if you are in fact the kind of kid that compulsory education laws were first aimed at, you can skip school all year long and nobody will pay any attention. The streets are full of the kinds of kids that schools were designed to keep off the streets. But if you are one of those now rare people who really care about the growth of your children and are willing to take the responsibility for helping that growth, and you try to take them out of the schools where they are not growing but shrinking, the schools are likely to begin shouting about courts and jails.[57]

Abington v. Schempp

The Supreme Court in *Abington v. Schempp* (1962) ruled that voluntary prayer under the aegis of the state constituted an establishment of religion and was, therefore, a violation of the First Amendment.

The Supreme Court declared that the state must be neutral in regard to religion. Government functions must be free from strife that derives from "treading on the individual's conscience, values or "belief or disbelief in the verity of some transcendental idea."[58]

Professor Arons points out that in enunciating its principle of neutrality in *Schempp*, the Court equated neutrality with secularity. In *Schempp* and subsequent church-state cases involving aid to sectarian schools, "the effect of the Court's schooling cases has been to uphold and entrench the legal fiction that schooling can be value-neutral."

The neutrality principle enunciated in *Schempp* has resulted in a widespread elimination of Judeo-Christian values from the value inculcation process taking place in the schools. The process has culminated in the current practice of banning the singing of Christmas carols and the creche from school Christmas festivities.

This so-called neutrality has by no means insured that religion has been free from attack under school auspices. For example, the curriculum programs in values clarification and moral education, which presume to help students form their values, make crystal clear by omission and selection that the transcendent is not a factor for consideration in the character formation of the students.

Prospects for Family Choice

We have only briefly touched upon some of the highlights of the rigorous analysis through which Stephen Arons has presented the constitutional basis for family choice; Professor Arons' study is best appreciated and understood in its original form. If the recognition of family rights in education is to become a reality for all families and not just those who are in a position to place their children in private schools, a much broader understanding by the public of the issues at stake is needed.

No better authority could be found to explain the current legal situation than the constitutional lawyer who successfully argued *Wisconsin v. Yoder* before the Supreme Court, Mr. William B. Ball.

In his recent monograph, "Litigation in Education: In Defense of Freedom,"[59] Ball analyzes the

four areas in which parents are currently engaged in struggles for freedom to educate their children: (1) compulsory attendance, (2) state control of private education, (3) rights of conscience in public education and (4) denial of distributive justice in the use of tax funds for education.

In the areas of compulsory education and regulation of private education, state regulations that violated the parents' free exercise of religion have been struck down in two widely publicized decisions at the state level by the highest court, *Ohio v. Whizner*[80] and *Vermont v. LaBarge*. In his study, Ball quotes the following passage from the unanimous decision of the Vermont Supreme Court in *LaBarge*:

> The United States Supreme Court, in *Pierce v. Society of Sisters* . . .long ago decided that a state could not compel all students to be educated in public schools. As recently as *Wisconsin v. Yoder* that court has also stated that compulsory school attendance, even on an equivalency basis, must yield to First Amendment concerns. In the light of what is involved in "approval" the state would be hard put to constitutionally justify limiting the right of normal, unhandicapped youngsters to attendance at "approved" institutions.[81]

Based upon his wide knowledge of the various laws and regulations under which the state controls schools, Ball sees ample opportunity for prudent, perceptive and forceful resistance to the presumption by the education monopolists that they can regulate family choice. He states that "there are now hosts of useful precedents in the major civil liberties and civil rights cases that can serve us exceedingly well in a countermarch against the state in the courts, if we will but utilize these precedents aggressively and perceptively."

Ball's comments in the area of litigation in which parents seek to assert their rights of conscience in public education are of great importance in pursuing the full vindication of family rights in education. Although there is abundant evidence that the tenets of the non-theistic religion of "humanism" or "secular humanism" are widely taught in public schools,[82] Ball believes there are certain difficulties in making a case which is built solely on the proposition that secular humanism constitutes a viola-

tion of the establishment clause of the First Amendment.

While believing that it is possible to prove establishment of the religion of humanism or secular humanism in particular public schools, Ball perceives the First Amendment rights of conscience as much broader than the scope of the humanist religion.

Many practices in the public schools are offensive, not only because they are identifiable as part of the religion of secular humanism, but because they "directly offend beliefs and attitudes of given children and parents." Ball suggests:

> We must not be led into the trap of believing that we can challenge offensive practices in the public schools only if they constitute an "establishment" of religion. This is the legal posture which by design or accident, *Engel v. Vitale*[53] and *Schempp v. Abington Township School District* have led us.

Parents, taking the court at its word in *Schempp* and *Engel* and assuming that a court-imposed neutrality that locked out school prayers and Bible reading would preclude the promotion of anti-theistic values violative of religious beliefs, have discovered that lower courts have not applied the neutrality principle in an even-handed way. Lower courts, equating neutrality with secularity, have in most instances rejected claims of parents who allege that certain school programs and materials offend their religious beliefs.

In a California case, parents protesting sex education courses stated that such violated their religious beliefs. Although state law allowed them to keep their own children out of the program, the parents argued that the program should be discontinued because there was a strong informal pressure on all students to attend the courses and this pressure interfered with their religious freedom. The court decreed that "a mere personal difference of opinion as to the curriculum which is taught in our public schools system does not give rise to a constitutional right in the private citizen to control exposure to knowledge."[54]

Another lower court case that arose out of the textbook controversy in Kanawha County, West Virginia is also illustrative of how the neutrality

principle that government must be neither favorable nor hostile to religion works in practice. Parents sought removal of textbooks from the schools on the grounds that the materials were among other things, "offensive to Christian' morals." The Court agreed that the materials were "offensive to plaintiff's beliefs, choices of language and code of conduct."[65]

However, the court did not find that placing these texts in the county schools violated the parents' constitutional rights. The judge observed that "freedom of religion does not guarantee that nothing about religion will be taught in the schools nor that nothing offensive to any religion will be taught." The judge told the parents to "pursue their grievances through board of education proceedings or ultimately at the polls on election day."

In other instances when parents have worked through established democratic procedures and convinced school boards and officials to reflect their particular democratic consensus, the result has been overturned by the courts.

A vivid illustration of this phenomenon is the case of *Keefe v. Geanakos.*[66] An English teacher assigned to his class an article in which the word that denotes an incestuous relationship between parent and child was repeatedly used. A number of parents found the repeated use of the word in class offensive and protested to the school committee. Because of the protests, Keefe was suspended when he refused to agree never to use the word again in class. The Federal Court ruled that *Keefe's* suspension violated *his* constitutional rights, and concluded that the sensibilities of the offended parents "are not the full measure of what is proper in education."

Based on these cases and others, David Schimmel and Louis Fischer, the authors of *The Rights of Parents*, conclude that judges have been generally unwilling to "substitute their judgment for that of the professional educators in matters where parents seek to remove curriculum programs or materials they find objectionable."

This general statement did not hold in the Indiana Superior Court where on April 14, 1977, Judge Michael Dugan banned a book that taught creation along with evolution as the other side of

the origins question. Reversing a decision made by state school officials reflecting community consensus, Judge Dugan agreed with the American Civil Liberties Union, which brought the case before him, that the book breached the "wall of separation between church and state."[67]

The issues in the lower courts cited above have not come before the Supreme Court. The highest court has not been confronted with the question of whether educational theories and curricula offensive to believers in God violate the First Amendment's free exercise or establishment of religion clauses. Would a majority of the Court find that humanistic courses expressly designed to mold and develop non-theistic values and beliefs violate the First Amendment rights of believers?

To persist in equating government neutrality with secularity is to conclude that theistic values and beliefs constitute "establishment of religion" and can not be supported by government. On the other hand, equating neutrality with secularity has the likely effect of finding non-theistic, anti-theistic and humanistic beliefs to be "secular" and therefore not beyond that which the First Amendment forbids in the schools.

This juridicial "heads humanists win, tails believers lose" state of affairs can hardly be in keeping with the spirit of justice and fairness the First Amendment was designed to foster. As David Little, Professor of Religion at the University of Virginia, has commented:

> Why should those who nurture students and direct their destinies with reference to non-religious beliefs be favored over those who espouse religious principles? In terms of simple justice, why should Bentham's view be publicly supported in preference to Roman Catholic or Lutheran or Mennonite views, just because Bentham's views happen not, in one plausible sense to be religious? And if such bold discrimination in favor of nonreligious principles is the implication of the establishment clause, then perhaps that clause needs some strenuous rethinking.[68]

Many parents, particularly those with strong religious convictions are likely to feel that their right to direct the education of their children emanates from a source higher than the state and the courts.

They would also claim that the Constitution and the First Amendment contemplated a guarantee of these God-given rights as a higher value than whatever claims the state may have, particularly in all areas dealing with "formation of beliefs." The fact that courts have denied these basic rights does not mean that they do not, therefore, exist.

One possibly fruitful avenue of litigation may be the issue of whether, under compulsory education laws, educators can impose upon students courses in value inculcation without the prior informed consent of their parents. In simple fairness, it would appear that the state's claim that it must "socialize" children in a compulsory school system should be subordinate to the rights of parents to determine whether their children will be subjected to the belief systems involved in values clarification, moral education, or other humanistic programs that may be imposed upon them under the aegis of the state.

More recently, the drastic decline in learning achievement has prompted state legislators to deal with the question of academic standards, an issue that, heretofore, had been almost entirely left in the hands of the professional educators, with disastrous consequences. In this new spirit of accountability to the public, state legislators may be more receptive to a parental consent requirement for courses that seek to analyze, process, and alter values, attitudes and beliefs as represented by curricula in moral education and values clarification.

Chapter 5

Education at the Crossroads: Family Choice or State Control?

The issue at hand is who should have ultimate control over the child's education, the family or the professional educators who act as agents of the state. The essence of American pluralism is that we are a diverse people of widely differing values, beliefs and religio... and that families should be free to form and practice their beliefs within a framework of shared civility and mutual respect for the rights of others.

In a recent book, *Education by Choice: The Case for Family Control*, law professors John E. Coons and Stephen D. Sugarman conclude that the current state-run school system is inadequate to guarantee this vital freedom to all families. They hold that if the ultimate aim of education is the fulfillment of the best interests of the child, the case for reforming the system to enable families to make the definitive educational choices for their children is overwhelming.

They cite three compelling reasons why the family is more qualified than professional educators to make educational decisions in the child's best interest. It is only within the nurturing home environment that the family communicates with, knows and cares for the child during his formative years. The love, affection and concern inherent in the family tie equips the average parent to nake reasonable educational choices for the chiid.

Coons and Sugarman find the assumption "incredible" that the education professional could be considered more capable of deciding the type of education that best suits a particular child than the child's parents. This is particularly true in view of the fact that professional educators make crucial educational choices for large numbers of children in the mass and can not, by the very nature of the

system, deal with children in a personal, knowing and caring fashion uniquely characteristic of family life.

Proponents of family choice have commented on the contradiction inherent in the current system in which the state trusts the family to make virtually all decisions vitally affecting the child including food, hours of rest, shelter, medical care and religious affiliation. Only in the area of education does the state "virtually emasculate the family's options."[69]

Another proponent of family choice, economics professor Richard E. Wagner, points out that the argument that choices about education should be made by educational experts instead of parents is inconsistent with the democratic premises of our society. If citizens can not be trusted to make educational choices, why should they be entrusted to make political choices as to who will run the government?[70]

In the same vein, John Fentress Gardner has stated:

> It is a strange paradox that those who are most fanatical about the necessity for the democratic school system are also most distrustful of the people. The "people" they fear are likely to prefer the tawdry, the fake, the shortsighted, the selfish. But if one does not believe that most of the people, most of the time will prefer for their beloved children the best of what is available, on what basis does one's confidence in democracy rest?[71]

At the time of our country's founding, education was a function of the family and the church. The establishment of the public school system in the nineteenth century envisioned local communities controlling their own schools, despite the fact that they were funded by the state. The trends which have virtually eliminated any semblance of local community control over school content and programs were discussed in Chapter One.

We may profitably ponder anew the truism that *education is always religious*, a concept accepted by leading educational theorists, humanist and Christian alike, but consistently overlooked by the Supreme Court. In its school aid decisions the Court has tended to view "religion" as that which pertains only to organized theistic religion.

In its future deliberations on the First Amendment rights that all Americans, not just those professing a non-theistic religion, properly claim, the Court would profit from a careful reading of the father of modern public education, John Dewey, a professed non-theistic humanist and a chief architect of the first Humanist Manifesto. In discussing the role that public schools should, in his view, play in fulfilling the universal religious impulse, Dewey stated:

> Why should we longer suffer from deficiency of religion? We have discovered our lack; let us set the machinery in motion to supply it....Education is the modern universal purveyor, and upon the schools shall rest the responsibility for seeing to it that we recover our threatened religious heritage.[72]

Like many non-theistic humanists of today who work so diligently to uphold an unbreachable wall of separation of church and state, Dewey saw the perfect fulfillment of his own religion in the state controlled secular school. Only within the last generation has it become increasingly apparent that Dewey's dream of a non-theistic secular state-supported school system has been realized.

Ironic confirmation of the universal religious impulse, whether it be one that denies God or affirms Him, is found in a recent article by Leo Pfeffer, "Issues that Divide: The Triumph of Secular Humanism."[73] Pfeffer is the well-known constitutional lawyer who has argued cases before the Supreme Court on behalf of Americans United for Separation of Church and State, the National Education Association and the American Civil Liberties Union, in which he has advanced the thesis of a wall of separation between church and state.

In this incredible article, Pfeffer repeats his astonishing assertion that virtually all Americans, Protestants, Jews and non-believers (with the marked exception of Roman Catholics), are "for want of a better term secular humanists."

The theme of the article is a general rejoicing that as more and more Americans are, in Pfeffer's view, upholding secular humanism as the prevailing ethic of our society, there are fewer "issues that divide" Americans. We are left to wonder why

Pfeffer believes that the Constitution mandates supression of everyone else's religion but his.

Leo Pfeffer's article is even more interesting to the degree that it reveals an apparent frame of mind that is not so much a desire for separation of church and state as it is a rather glaring hostility toward Christian beliefs. The permanent cure for the religious divisiveness Pfeffer decries is for all Americans to adopt his religion. As he puts it, "secular humanism has won out."

The candor with which the nation's leading advocate of "separation of church and state" pronounces the "triumph" of secular humanism as the "prevailing ethic of American society" should not really be too surprising. The messianic impulse that compels Leo Pfeffer to attempt to use the First Amendment to drive all theistic religion into the closet, while not seeing the justice of a comparable restriction on his own, is a confirmation of the religious impulse that is in the nature of the human condition.

It was a keen historic awareness of this human condition, born out of the religious strife of their English homeland, that impelled the founding fathers to formulate the free exercise and establishment of religion clauses of the First Amendment. Professor John Coons makes the point when he comments that if Jefferson were alive today he might well grieve that the First Amendment reads "religion" instead of "ideology."[74]

Proposals for Family Choice

Although there is increasing discussion of the case for family choice, many questions remain as to how this might be accomplished. The focus of debate is on proposals that will reform the current system of education to permit families to choose the kind of education they prefer for their children.

The emphasis is on measures that directly affect the individual family rather than the school. Proposals that merely seek to provide state funding for private schooling are likely to accomplish little more than the establishment of the same kind of programmatic controls over private schools that now dominate public institutions.

One possible path to family choice lies in measures that would have an impact directly on all families regardless of the educational choices they make, public or private. This broad view is in keeping with the concept of education as the primary responsibility of the family rather than the state or church. It builds on the First Amendment tradition that supports the rights of families in the formation of belief. This solid tradition, as embodied in the landmark Supreme Court cases of *Pierce*, *Barnette* and *Yoder*, and so cogently developed by Stephen Arons, is discussed in detail in Chapter Three.

There have been a number of proposals which move toward the establishment of family choice and the disestablishment of programmatic control by the state. E.G. West, Professor of Economics at Carleton University in Ontario, Canada, has suggested the challenging proposal that only patrons of state schools be taxed under a "user tax" which would be paid over the lifetime earnings of families using public schools. Professor West's proposal has provoked interesting reactions from a number of scholars and the resulting debate has been published in *Nonpublic School Aid*.

West's proposal has the advantage of keeping the private school sector totally unconnected to the state, thereby avoiding the undesirable potential for state control over private schools. However, as John Coons points out in responding to West's proposal, if family choice is to be within reach of all families and not just the nonpoor, some means must be found to develop an equitable system that takes this concern into account.

In *Education by Choice*, Coons and Sugarman propose a voucher system in which all families participate in a combination of family income and vouchers in amounts that are proportionate to family income which would be applicable to all schools, public, private, religious or secular, which verify to the state a minimum of desirable educational outcomes confined to reasonable competence in basic academic skills.

The tuition tax credit concept is another possible means toward increasing family choice whose popularity is demonstrated by the broad bipartisan support that it has received in Congress during this session.[75] The proposed Senate version

provides for a tax rebate to low-income families, thereby permitting them a measure of educational choice they do not now have.

Low-income parents, trapped in schools not of their own choosing are growing angry as they try to piece together the lives of their children who have been cheated of an education. Nat Hentoff reports the tragic plight of a black father in New York City as he watches his once alert and curious kindergartner falling further behind with each passing year:

> The black father was so consumed with anger and despair that it was hard for him to speak. "You people" he said to the impassive members of the board of education, "operate a . . . monopoly like the telephone company. I got no choice where I send my child to school. I can only go where its free. And she's not learning. That's your responsibility, it's the principal's responsibility, it's the teacher's responsibility that she's not learning. And when you fail, when everybody fails my child, what happens? Nothing. Nobody gets fired. Nothing happens to nobody except my child." Without response, the board of education went about its business, business which clearly did not include that black child.[76]

One of the greatest concerns, however, with any proposals that seek to provide family choice, whether they be vouchers, tuition tax credits or whatever, is that such proposals do not result in state control over private schools. There appears to be little point in struggling private schools being absorbed into the public sector as "recipient institutions" which must be "accredited" or "approved" by the state in what amounts to a plethora of programmatic controls that mandate courses, content, teaching methods, certification of teachers and the inevitable educationist fads such as "career education," "environmental education" or "eradication of sexual stereotypes."

John Fentress Gardner has formulated a set of principles based on the constitutional, philosophical and legal implications of the authentic meaning of religion that should serve well as a guide in efforts to achieve family choice for all families:

A. The state must be neutral with respect to religious institutions in keeping with the First Amendment.

B. In the first analysis, schools are religious institutions.

C. Therefore the state must become neutral with respect to the support and control of schools.

Bearing in mind the concept that the First Amendment confirms the right to freedom in the formation of belief and that education entails the essence of belief formation, "the spirit of the First Amendment requires us to realize that state power should keep hands off the schools as it does off the churches. The state schools must eventually, be due process and by many small steps, and as a matter of harmonious evolution . . . be disestablished as state churches have been."[7]

Practical Steps Toward Family Choice: Eliminating Programmatic Controls

The controls over education exercised by the state governments and the federal government are largely programmatic in nature. In order for parents to be in compliance with compulsory attendance laws, their child must spend a required number of hours and years under the tutelage of teachers certified by the state in courses mandated by the state. If the child completes the requisite number of years in this process he receives a certificate to demonstrate that he is "educated." Moreover, state boards of education, under authorization by state legislatures, issue regulations that further specify the nature of the process the child must undergo.

In the "McGuffy Reader" era, this process was largely confined to the basic skills. Moreover, teachers in that era were required to take tests in basic fields of knowledge before they could be certified to pass that knowledge on to school children.

In the present era, professional education interests have locked state control over schooling into a programmatic agenda that may include all manner of regulations for the teaching of, for example, sex education, interpersonal relationships, family life education, health, contemporary problems, environmental education, and so on.

As the states have increased the scope of programmatic controls, frequently to be "in compliance" with federal laws or federal bureaucratic

regulations, many critics have noted that there has not been a corresponding increase in academic achievement. Indeed it is clearly evident that as programmatic controls have increased, achievement in the basic skills as demonstrated by standardized tests has decreased.

Consider the famous story of the California boy who was processed through twelve years in the public schools and upon graduation could not read. Although the parents were not successful in holding the state schools responsible through the courts, the scandal caused by this case and others like it, together with increased public awareness of widespread basic skills deficiencies, has prompted state legislatures to respond with the passage of "minimum competency" requirements.

For the first time since the ascendancy of modern progressive education, the public is demanding and getting a response from state legislators to require something more from the students than the occupancy of a seat in a public schoolroom for twelve years. This development is a healthy sign that achievement as shown by objective standardized tests is now being recognized as a more meaningful criterion of "educational achievement" than the present process-oriented requirements. However, the future success of these minimum competency requirements is highly problematic in view of the enormous clout of teachers' unions, whose antipathy to standardized tests is well known.

In regard to state certification of who is fit to teach, a process-oriented certification system, installed largely to serve the preferences of vested education interests, may, for example, require teachers to be certified if they have the required number of courses in psychology, behavior modification, humanistic education, and "methods," but who do not necessarily possess competence in basic skills and subjects. In the wake of an aroused public, some school systems are now testing teachers in basic subject areas with the startling results that significant numbers of certified teachers are failing tests in the basic skills the parents expect their children to be taught.

Some state educational bureaucracies, seeing the burgeoning Christian school movement as a threat

to their hegemony, have aggressively sought to extend programmatic controls over private schools. In the celebrated case of *Ohio v. Whizner*, the Ohio court held that programmatic controls imposed by the Ohio State Board of Education over a private Christian school and its client families violated the free exercise of religion of the defendants. The same issue is currently being litigated in Kentucky and North Carolina where private Christian schools receiving no state funds are asserting their right to function free of the programmatic controls of the state.

Concerned citizens in recent years have discovered that their local schools, under regulations promulgated by state educational bureacracies, are mandating requirements that students be processed to develop desirable psychological and sociological attitudes and values. In Pennsylvania, for example, parents have strenuously objected to state-mandated educational goals that expressly require the socialization of children in the "affective domain" of attitudes and beliefs. The constitutional tradition of *Pierce* and *Yoder* should place such improper programmatic objectives beyond the pale.

Recently the Maryland legislature mandated the teaching of "moral education" in the schools, in part as a hoped for antidote to violence and mayhem in the schools. It is difficult to understand, however, how moral education, based on the premise of situation ethics and glorification of the self can result in reduced numbers of mugged kindergartners, broken windows and flooded restrooms.

There is reason to believe that the climate is right for concerned citizens to aggressively pursue their rights in regard to the programmatic controls that go far beyond any legitimate interest the state may have in basic skill competence.

There are a number of alternatives to the present structure of programmatic controls that could be established at the state level. For example, Donald Erickson has suggested that a state licensing authority, composed of representatives of a broad range of interests, including business, labor and civic leaders drawn from outside the educational establishment, could be established to license

schools. The focus of licensing and approval should be on specific educational *ends, not means*. Parents and children should be given complete freedom to decide how specified competencies will be required, so long as each child demonstrates periodically (by responding to standardized objective tests, for example), that reasonable academic progress is being made."[8]

Numerous options are available for maintaining the state interest in literacy and academic competence. The choice is not simply between maintaining programmatic controls and no controls at all. The essential point is that controls and regulations ministered by the state focus upon widely agreed-upon educational outcomes in the basic skill areas within a framework that assumes that families have the right, the competence and the special vocation to make reasonable educational choices for their own children.

Postscript:

Shortly before we went to press, the Senate, on August 15, 1978, passed a tuition tax credit bill. Earlier the House of Representatives had passed tuition tax credit legislation which, in addition to providing credits for elementary, secondary and college students, contained this important provision:

> *Any educational institution which enrolls a student for whom a tax credit is claimed under this Act shall not be considered to be a recipient of Federal Assistance under this Act.*

Unfortunately, the Senate version of the bill omits this important clause, which clearly states congressional intent that schools through which the credit is obtained are not to be considered recipients of federal aid and therefore subject to federal regulation and control. Moreover, the Senate version contains a provision that HEW, the Attorney General and the Internal Revenue Service report to the Congress on the "effectiveness of enforcement" by the IRS on not only "policies against racial discrimination," but "other forms of discrimination which are contrary to law or against public policy."

The Senate version omits tax credits to parents enrolling children in private elementary and secondary schools. Far more important, however, is the possible effect of the section cited above which appears to mandate extensive federal monitoring of private schools by the IRS in areas that go far beyond racial discrimination. The differences in the two bills will now be resolved by a conference between members of the House Ways and Means and Senate Finance Committees.

Conclusion

There are three issues that are currently on the national agenda for the interest groups, led by the politically active National Education Association, that dominate public education. That agenda includes (1) the defeat of the pending Tuition Tax Credit bill (2) the creation of a separate cabinet department of education which the *Washington Post* editorialized is tantamount to giving education interest groups their own cabinet level bureaucracy" and (3) the extension of the Elementary and Secondary Education Act of 1965, the golden promises of which have turned to bitter ashes in the mouths of the poor for whose welfare it was purportedly intended.

Yet there are signs that the winds of public opinion may be blowing in the direction of family choice as reactions set in to the present system. In Ohio, citizens defeated school bond levies in June of 1978 even as they were told that the schools would close as a result. In California opponents of Proposition 13 informed the public that massive layoffs of school teachers would result, but the measure passed by a margin of two to one. It is clear that a major tax revolt is in the making.

The next target of irate citizens may be the hefty increases in yearly federal education appropriations that are voted by a Congress that has listened in too many instances to the blandishments of the National Education Association and a coterie of special interest groups instead of the beleaguered taxpayer. These increases have been voted by Congress despite declining tests scores and declining enrollments.

As Edwin M. Yoder, Jr., chief editorial writer of *The Washington Star* recently wrote in regard to the massive opposition of education interest groups to the tuition tax credit bill:

> A robust system of public education, combined with a generation of Supreme Court interpretation of the First Amendment, has established secularism as the

norm for the schools and certain interest groups imagine themselves to have a life or death stake in the survival of this monopoly.[80]

By no means is it fair or just to make all public schools the scapegoat for ills that are symptomatic in our society. However, families in our free society must judge themselves; institutions supported by the public purse must be judged by the public in terms of (1) what they have been paid to do and (2) what they are claiming to do.

All too often the tragic reality of a generation of lost children has been covered up by the carefully-honed public relations skills of the education monopolists. For too long, questions on the essence of education have not been addressed. Too many educators have derailed debate on the vital questions by denouncing any who dared to dissent from their orthodoxy as bigoted reactionaries who merely wish to escape from those of a different race or economic background.[81]

Yet, what is apparent to all concerned with the future of children rather than their own self interest is that what really divides families today is not race or class but questions of fundamental human values.

Consider the inspiring story of Marva Collins of Chicago, Illinois. Marva Collins, "fed up" after teaching in public schools for fourteen years, now has her own school in the heart of Chicago's tough West Side. Using their family savings, Marva and her husband Clarence opened up West Side Prep on the second floor of their two family home.

In her class children are achieving at or above their grade level who were previously classified in the public system as mentally retarded or possessed of learning disabilities.

Marva Collins, commenting on why she embarked on her own school says:

> "I was angry after fourteen years teaching in the public schools. Money isn't the answer. And gimmicks don't make education better. Teaching takes a personal interest on the part of the teacher. It takes discipline and dedication to learning.[82]

Commenting on the training she received to "qualify" her to be a teacher, Mrs. Collins remarks: "I really learned nothing in college that

helped me become a teacher. Academically, it has been my creator and me."

Marva Collins refused $16,000 in federal funds offered to her last year. She comments: "We keep putting bandaids on hemorrhages—giving people money but no skills."

Dr. Leonard Borman, a research associate at Northwestern University for Urban Affairs and director of the Self Help Institute, says about Mrs. Collins: "She has gone outside the formal system and I suspect if you're interested in helping kids learn, you have to go outside the system and bootleg it." Can it be that there are many more teachers, trapped inside the system, who have the same potential to teach children as does Marva Collins?

William Ball, in the beginning of his monograph "Litigation in Education: In Defense of Freedom," makes the profound observation that

> Looked at in one way, our people may be divided into those who fear 1984, those who ardently want 1984, and who don't care about 1984.

There is every reason to believe that there are many Americans who are determined, with the aid of the Almighty, to reverse the educational trends that appear to lead to 1984. In that endeavor, it is well to remember that it was a man of the left, George Orwell, who had the vision to forecast 1984.

The struggle for family rights in education is not just a battle between parents and educators. Many educators, just a few of whom have been quoted in these pages, are vitally concerned for educational reform.

At the family level, it is a question of whether parents will be able to guide and sustain their children to cherish and continue the values that they hold. At the cultural level, it is a question of whether standards of beauty, virtue and excellence and even the very notion of standards will survive and flourish. It is the question of our society's ability to produce emotionally and intellectually mature and competent individuals. To all of these questions, education is the key, which is why, when all is said and done, no other issue on our national agenda exceeds its importance.

Footnotes

1. Edward B. Fiske, "Illiteracy in the U.S.: Why Johnny Can't Cope," *The New York Times*, April 30, 1978. "Despite the country's longstanding commitment to universal literacy and the $70 billion a year that is poured into public schools in its pursuit, the fact is that millions of Americans—by some estimates as many as one of every five adults—do not possess the minimal reading, writing and calculating skills necessary to function in modern society."

   See also Tamie Watters, "Educator concedes: rules foster creativity," *Christian Science Monitor*, November 14, 1977, p. 25. "Jonathan Miller, recently guest speaker at the annual dinner of the Royal Academy of Fine Arts in London, surprised listeners by his denunciation of permissiveness in education and self-indulgence in the arts. This versatile Englishmen (actor-director-author-qualified neurologist-university lecturer) has been linked with the avant-garde ever since his stardom in *Beyond the Fringe*, the popular student review that he co-authored.... Rules and regulations coupled with discipline, he insisted, were the very matrix of creativity."
2. Donald A. Erickson, Richard L. Nault and Bruce Cooper, "Recent Enrollment Trends in U.S. Nonpublic Schools" in *Declining Enrollments: the Challenge of the Coming Decade* (National Institute of Education, March, 1978), pp. 81-127. This report is available from the Division of School Finance and Management, 1200 19th St., NW, Washington, D.C. 20208.
3. Christopher Lasch, *Haven in a Heartless World: The Family Besieged* (New York: Basic Books, 1977).
4. "Adler Grows Despondent on Schools," *Washington Star*, April 30, 1978, p. A1.
5. Thomas M. McFadden, "Availability of Defense Manpower," *National Defense*, March-April, 1978, p. 470.
6. "Does 'Apathy' Deserve All the Blame?" *Washington Post*, May 17, 1978.
7. For an insight into what faces school board members

today see, for example, Gregg W. Downey, "Why school board members quit--and why they're sometimes glad they did," *American School Board Journal*, February, 1978, pp. 26-29, and Myron Liberman, "The case against letting a moonlighting professor pick your next superintendent," *American School Board Journal*, April, 1978, pp. 35ff.

8. L. Harmon Zeigler, Harvey J. Tucker, and L.A. Wilson, "How School Control Was Wrested From the People," *Phi Delta Kappan*, March, 1977, pp. 534-439.
9. The ready access to the public trough enjoyed by special interest education groups is graphically illustrated by the report in *Education Daily*, February 16, 1978, excerpted below:

> HEW's National Institute of Education said that beginning this year it will use a system of grants, rather than competitive contracts, to support 17 regional laboratories and university-based education research centers that get major funding from the federal government.
>
> ...NIE made its announcement after a Panel for Review of Laboratory and Center operations mandated by Congress and appointed by the NIE director recommended that NIE work out "long-term relationships" with the 17 research groups. The labs and centers, which were created with federal money, most under the old Cooperative Research Act and Title IV of the Elementary and Secondary Education Act of 1964, include Appalachia Educational Laboratory, Inc., Charleston, W.Va.; CEMREL, Inc., St. Louis, Mo.; Center for Educational Policy and Management, University of Oregon, Eugene; Center for Social Organization of Schools, Johns Hopkins University, Baltimore, Md.; Center for Study of Evaluation, UCLA Graduate School of Education, Los Angeles, Calif.; Center for Vocational Education, Ohio State University, Columbus, Ohio; Far West Laboratory for Educational Research and Development, San Francisco, Calif.; Learning Research and Development Center, University of Pittsburgh, Pittsburgh, Pa.; Mid-continent Regional Educational Laboratory, Kansas City, Mo.; Northwest Regional Educational Laboratory, Portland, Ore.; Research for Better Schools, Inc., Philadelphia, Pa.; Research and Development Center for Teacher Education, University of Texas, Austin; Southwest Educational Development Laboratory, Austin, Texas; Center for Educational Research, Stanford University School of Education, Stanford, Calif.; SWRL Educational Research and Development, Los Alamitos, Calif.; and Wisconsin Research and Development Center for Cognitive Learning, Madison, Wisc.
>
> Originally, the labs and centers were administered by the U.S. Office of Education, but they were moved to the National Institute of Education when NIE was created by Congress in 1972. At OE, the labs and centers got funds

under "scope of work" proposals, but NIE changed that to require labs and centers to compete with other researchers for federal money on a contract or "program purchase" basis.

Labs and centers objected that the contract approach threatened their "institutional identity"; and in 1976 Congress, as part of a reauthorization of the National Institute of Education, told NIE to solicit proposals and long-range plans from the institutions and name a panel to recommend which ones should continue to get federal support.

(On July 17, 1978, *Education Daily* reported that NIE had given $43 million in grants to these labs and centers for an eighteen month period ending November 30, 1979.)

10. Constance H. Kravas and Donald C. Orlich, "Winning the Grantsmanship Game," *Phi Delta Kappan*, April, 1978, pp. 537-539. The grantsmanship game is much more than a game for it has a powerful capacity to corrupt those who play it. See, for example, Richard A. Bumstead, "Scandal in the Use of VocEd Funds," *Phi Delta Kappan*, March, 1978, pp. 477-478.
11. Available free of charge from the National Advisory Council of Women's Educational Programs, Suite 821, 1832 M St., N.W., Washington, D.C. 20036.
12. *Education Daily*, April 3, 1978.
13. *Arnold v. Carpenter*, 459 F.2d 939,944 (7th Circ. 1972).
14. *Zeller v. Donegal School District Board of Education*, 517 F.2d 600 (3rd Cir. 1975).
15. David Schimmel and Louis Fischer, *The Rights of Parents in the Educational Of Their Children*, The National Committee for Citizens in Education, 1977, pp. 30-43. This book gives an extremely useful overview of the rights of parents in all areas of education. It is available for $2.95 from NCCE at Suite 410, Wilde Lake Village Green, Columbia, Md. 21044.
16. Contrast Robert L. Ebel, "Declining Scores: A Conservative Explanation," and Vincent R. Rogers and Jane Baron, "Declining Scores: A Humanistic Explanation, "*Phi Delta Kappan*, December, 1976, pp. 306-313.
17. Solveig Eggerz, "Unions vs. Education," *Roll Call*, April 5, 1973. Another prophetic statement by former NEA president Barrett cited in the same article was: "We are the biggest potential striking force in this country and we are determined to control the direction of education."
18. *Ibid.*
19. John Fentress Gardner, *The Experience of Knowledge* (Garden City, New York: Waldorf Press of Adelphi University, 1975), p. 2.

20. The most controversial federally-funded curriculum promoting this world view is Man: A Course of Study (MACOS), which is the embodiment of the values and philosophy of the well-known educational theorist, Jerome Bruner. The values being promoted by this course were so widely objected to that Congress ultimately voted to cut off funding for the implementation of MACOS. Before that took place, however, course developers had received $7 million of the taxpayers' money to develop and implement MACOS. The definitive study of this curriculum is Susan M. Marshner's *Man: A Course of Study: Prototype for Federalized Textbooks?* (Washington, D.C.: The Heritage Foundation, 1975). It is available from The Heritage Foundation for $2.00.
21. Abraham Maslow, *The Farther Reaches of Human Nature* (New York: The Viking Press, 1971), pp. 186-187, quoted in Gardner's *Experience of Knowledge*. Professor Gardner's book contains extremely useful appendices in which excerpts from the writings of Abraham Maslow and B.F. Skinner are given.
22. Earl Kelley and Marie Rasey, *Education and the Nature of Man* (New York: Harper & Brothers, 1952).
23. Gardner, *op. cit.*, p. 38.
24. Byron G. Massialas, "Inquiry," *Today's Education, The NEA Journal*, May, 1969, p. 41.
25. Gardner, *op. cit.*, p. 36.
26. *Ibid.*, p. 37.
27. "A Critique and Evaluation of the Magic Circle," an analysis done by the Pennsylvania Coalition for Basic Education, 1974.
28. A graphic illustration of the absorption of leading education theorists in the process at the expense of content is by Benjamin S. Bloom, J. Thomas Hastings and George F. Madaus, *Handbook on Formative and Summative Evaluation of Student Learning* (New York: McGraw Hill, 1971). This book reflects the premise of modern educators that it is their job to develop and evaluate students not only on academic learning, but in terms of their attitudes, values and beliefs.
29. C.S. Lewis, *The Abolition of Man* (New York: The Macmillan Company, 1973), p. 29.
30. Ronald Lippitt, Robert Fox and Lucille Schiable, *The Teacher's Role in Social Science Investigation* (Chicago: Science Research Associates, Inc., 1969).
31. Lawrence Kohlberg, "The Cognitive-Developmental Approach to Moral Education" in Peter Scharf, ed.,

Readings in Mo. . Education (Minneapolis: Winston Press, 1978), pp. 50-51.

32. *Ibid.*, p. 11.
33. *Ibid.*, p. 40.
34. William J. Bennett and Edwin J. Delattre, "Moral Education in the Schools," *The Public Interest*, No. 50, Winter, 1978, pp. 91-92.
35. *Ibid.*, pp. 93-94.
36. Kohlberg, in his foreword to *Readings in Moral Education*, actually says (pp. 12-13) that because of Watergate, "the educational system is now expected to develop a majority of citizens governed by principles once assumed to be the prerogative of a moral elite." Clearly the American public's moral development must be advanced because "the majority of our adults are at the conventional level, particularly in the law-and-order fourth moral stage." Kohlberg finds that his services are desperately needed in the schools because "the schools have produced citizens like Lieutenant Calley and Richard Nixon" who are "only good at giving and taking orders" (and are therefore hopelessly ensconced in stage two of their moral development).

    Kohlberg's discussion of what the American education system has produced would have been infinitely more interesting if his value orientation had permitted him to see that if the American school system produced Lieutenant Calley and Richard Nixon, it also must have produced Squeaky Fromm, Charles Manson, Lee Harvey Oswald and Richard Speck. This tendency to pass moral judgement on an entire nation, and selected individuals in it, and then use that judgement as a justification for imposing one's own value system on American school children is a chilling illustration of the political and ideological warfare being waged under the guise of social science.
37. C.S. Lewis, *op. cit.*, p. 72.
38. Robert Dreeben, *On What Is Learned At School* (Readi- g, Mass.: Addison-Wesley Publishing Compan, 1968).
39. Donald A. Erickson, *Super-Parent: An Analysis of State Educational Controls*, (Chicago: Illinois Advisory Committee on Non-public Schools, 1973), Chapter Two, p. 22. See also, Donald A. Erickson, "The New Public Schools," Center for Independent Education, 1977.
40. Samuel N. Francis and Charles E. Stacey, "Law and the Sensual Teacher," *Phi Delta Kappan*, October, 1977, pp. 98-102.

41. *Tinker v. DesMoines Independent School District*, 393 U.S. 503 (1969).
42. *Goss v. Lopez*, 419 U.S. 565 (1975).
43. *Gambino v. Fairfax County School Board*, 429 F. Supp. 731 (Va. 1977). It is referred to by M. Chester Nolte, "School boards vs. the student press (the kids are winning), *American School Board Journal*, February, 1978, p. 23 ff.
44. Pat Lewis, "In the Suburbs: Teens Tell Why They Skip School (Most Believe in 'Right' to Do What They Want)," *The Washington Star*, April 30, 1978, p. D1.
45. Blaine Harden, "Fairfax Students Agitated," *The Washington Post*, April 27, 1978, p. A1.
46. The solutions offered by Senator Bayh's committee are contained in *Challenge for the Third Century: Education in a Safe Environment—Final Report on the Nature and Prevention of School Violence and Vandalism*, 1977. See Birch Bayh, "Seeking Solutions to School Violence and Vandalism," *Phi Delta Kappan*, January, 1978, pp. 299-300.
47. *Law Enforcement Assistance Administration Newsletter*, Vol. 5, No. 9, April, 1976. One of the think tanks that routinely receives federal dollars to fund its activities, Research for Better Schools in Philadelphia received a grant from the LEAA to analyze the problem of increasing violence and vandalism in the schools. Not surprisingly, the Research for Better Schools study recommended as the solution to the violence problem: "Providing small grants to individual schools, school districts or community agencies, establishing regional staffs, experts in problem-solving procedures and knowledgeable about effective practices to reduce school violence, and developing a national program to insure quality of the technical assistance offered and to evaluate the effectiveness of the entire program."
48. Edward A. Wynne, "Behind the Discipline Problem: Youth Suicide as a Measure of Alienation," *Phi Delta Kappan*, January, 1978, pp. 307-315.
49. *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).
50. Stephen Arons, "The Separation of School and State: *Pierce* Reconsidered," *Harvard Educational Review*, Vol. 46, No. 1, February, 1976, pp. 80-104.
51. *West Virginia v. Barnette*, 319 U.S. at 642.
52. Sidney B. Simon, Leland W. Howe, and Howard Kirschenbaum, *Values Clarification: A Handbook of Practical Strategies for Teachers and Students*. (New York: Hart Publishing Company, Inc., 1972), p. 67.
53. Bennett and Delattre, *op. cit.*, p. 85.

54. 319 U.S. at 641.
55. *Wisconsin v. Yoder*, 406 U.S. at 210-11.
56. Lawrence Feinberg, "D.C. 7th Graders Cite Behavior as School Problem," *The Washington Post*, May 14, 1978, p. A1.
57. *Growing Without Schooling*, #3 (Holt Associates, Inc., 308 Boylston Street, Boston, Mass. 02116). We found this newsletter to be a mine of valuable information for parents. Sample issues are available for $.50.
58. *Abington v. Schempp*, 374 U.S. 203 (1963) at 234.
59. William B. Ball, "Litigation in Education: In Defense of Freedom" (The Center for Independent Education, P.O. Box 2256, Wichita, Kansas 67201).
60. *Ohio v. Whisner*, 47 Ohio St. 2d. 181 (1976).
61. *Vermont v. LaBarge*, 357 A.2d.121 (1976).
62. See Onalee McGraw, "Secular Humanism and the Schools: The Issue Whose Time Has Come," (Washington, D.C.: Heritage Foundation, 1976). The phenomonal growth of private Christian schools is one reflection of the widespread belief that the public schools to an increasing degree are teaching a religion of secular humanism.
63. *Engel v. Vitale*, 370 U.S. 421 (1962).
64. *Citizens for Parental Rights v. San Mateo Bd. of Ed.*, 124 Cal. Rptr. 68 (1975).
65. *Williams v. Bd. of Education of Cty of Kanawha*, 388 F. Supp. 93 (S.D.W.Va. 1975).
66. *Keefe v. Geanakos*, 418 F.2d 359 (1st Cir. 1969).
67. For an analysis of the Dugan decision see "Religious Freedom: The First Amendment and the Schools—The Battle Lines are Forming," *Education Update*, Spring, 1977, pp. 2-3.
68. David Little, "*Pierce* and the Religion Clauses: Some Reflections," in Donald P. Kommers and Michael T. Wahoske, eds., *Freedom and Education: Pierce v. Society of Sisters Reconsidered* (Center for Civil Rights, University of Notre Dame Law School, 1978), pp. 69-77. See also in the same volume, Rousas John Rushdoony, "The State as an Establishment of Religion," pp. 37-46.
69. John E. Coons and Stephen D. Sugarman, *Education by Choice: the Case for Family Control* (Berkeley: University of California Press, 1978), p. 10.
70. Richard E. Wagner, "American Education and the Economics of Caring," in *Parents, Teachers, and Children: Prospects for Choice in American Education* (San Francisco: Institute for Contemporary Studies, 1977).
71. Gardner, *op. cit.*, p. 216.
72. *Ibid.*, pp. 213-214.

73. *Journal of Church and State*, Vol. 19 (Spring 1977), pp. 203-216.
74. John E. Coons, "To West, Mostly with Love," in E. G. West, *Non Public School Aid* (Lexington, Mass.: D.C. Heath and Company, 1976), p. 48.
75. Reprints of the testimony given by Professor E. G. West on the tuition tax credit bill before the House Ways and Means Committee (January 18, 1978) are available on request from The Heritage Foundation.
76. Nat Hentoff, "Who's To Blame? The Politics of Educational Malpractice," *Learning*, October, 1977. Reprints of this article are available upon request from The Heritage Foundation.
77. Gardner, *op. cit.*, p. 215.
78. Erickson, *op. cit.*, p. 29.
79. "A Department of Education," *The Washington Post*, April 18, 1978, P. A18: "One of the principal risks of creating a separate education department is that it will become a creature of its clientele. That clientele would not necessarily be the schoolchildren and their parents affected by the federal government's education programs. Much more probably it would be the National Education Association, the organization of teachers and administrators who already exert a great deal of influence on education policy in Washington. In a way, this would be giving them their own department."
80. Edwin M. Yoder, Jr., "Tax credits and the secularization of schools," *The Washington Star*, May 4, 1978.
81. The literature of the education establishment, in dealing with parents who object to the values being promoted in state schools, often refers to objecting parents as "well organized" extremist groups such as the "Klu Klux Klan." A classic article reflecting this mentality is Gertrude Berger, "Island Trees, New York: Community in Conflict," *Organized Censors Rarely Rest. A Special Issue on Censorship*, Edited by Edward B. Jenkinson, *Indiana English*, Vol. 1, No. 1, Fall, 1977. It is available for $1.50 from the Office of Continuing Education and Extended Services, Terre Haute, Indiana 47809.
Ms. Berger's evaluation of the conflict in the schools is as follows:

> A tug of war is raging with the schools as the battleground. On one hand there is the dream of friendship among all races and religions which our classroom materials promote largely through the recognition of the cultural contributions of writers and artists. Schools utilize textbooks and curriculum materials to demonstrate the dignity of persons

living in a multi-cultural society. On the other hand, opposition to such practices arises from organized groups that view the multi-ethnic world as one in which God is absent or disparaged and one in which children are led to question their parents' values. There is absent in this conflict the belief that young people need to explore many different sides to controversial questions and that the schools should promote intelligent and wide inquiry.

82. Paul Martin, "In a class by herself," *Chicago Tribune Magazine*, April 9, 1978.

Recommended Readings

Arons, Stephen A., "The Separation of School and State: *Pierce* Reconsidered." Reprints of the original article from the *Harvard Educational Review* are available for $1.00 from the Center for Independent Education, P.O. Box 2256, Wichita, Kansas 67201.

Ball, William B., "Litigation in Education: In Defense of Freedom." Available for $1.00 from the Center for Independent Education at the above address.

Coons, John E. and Sugarman, Stephen D., *Education by Choice: The Case for Family Control* (Berkeley: University of California Press, 1978), $10.95.

Gardner, John Fentress, *The Experience of Knowledge* (Garden City, New York: Waldorf Press, 1975). Professor Gardner's book is available from the Council for Educational Freedom in America, Inc., 2105 Wintergreen Avenue, S.E., Washington, D.C. 20028 at the discount price of $4.95. This is a unique opportunity to obtain one of the most important books ever written in the field of American education.

The Council for Educational Freedom in America is a non-profit organization dedicated to promoting educational freedom. Readers are urged to write to the Council to obtain a complimentary introductory packet of their available publications.

Lewis, C.S., *The Abolition of Man* (New York: The Macmillan Company, 1947).

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